



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,072	05/15/2006	Valerie Lejeune	3888-0110PUS1	4138

2292 7590 09/26/2008  
BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
----------

ROBINSON, ELIZABETH A

ART UNIT	PAPER NUMBER
----------	--------------

1794

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

09/26/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/541,072	<b>Applicant(s)</b> LEJEUNE, VALERIE	
	<b>Examiner</b> Elizabeth Robinson	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 7-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 16-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6 and 16-19 are currently being examined.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 4, 2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6 and 16-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification only has support

Art Unit: 1794

for the sheet comprising 63% or 80% by dry weight of the hollow plastic microspheres, not for the entire range as claimed in instant claim 1. All other claims depend from claim 1 and thus, also do not meet the written description requirement.

### ***Claim Rejections - 35 USC § 103***

Claims 1, 2, 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carroll et al. (US 5,934,290), in view of Mougin (WO/2001/89470). The examiner is using US 2002/0115780 as the English language equivalent of the World document.

Regarding claim 1, Carroll (Abstract) teaches an acrylic (plastic) artificial fingernail (substrate) that has a smooth transparent look. After the artificial fingernail is formed, it can receive nail polish (coating) in the conventional way (Column 2, lines 32-38). Carroll does not disclose the composition of the nail polish. Mougin (Paragraph 149) teaches a nail varnish (polish) that shows good resistance to aging, does not become worn and remains glossy. It would be obvious to one of ordinary skill in the art to use the nail polish of Mougin, as the nail polish of Carroll, in order to have a nail polish that remains glossy and does not detract from the smooth appearance of the Carroll nail. Mougin teaches that the varnish can comprise hollow polymer microspheres (Paragraph 124) and nacre (iridescent) pigments (Paragraph 126). Mougin (Paragraph 125) teaches that the fillers (hollow polymer microspheres) can be 0 to 80% by weight of the composition. The binder for the varnish (Paragraph 148) is ethyl acetate and an acrylate copolymer, which would be colorless. Thus with iridescent pigments, the sheet would be inherently iridescent in appearance.

Regarding claim 2, Mougín (Paragraph 126) teaches that the iridescent pigment can be mica coated with titanium oxide.

Regarding claim 6, as stated above, the nail vanish is coated on an artificial nail that is transparent. The binder is colorless, and the other ingredients (titanium oxide coated mica and hollow plastic microspheres) are the same as in the instant application. Thus, the sheet would be transparent or translucent.

Regarding claim 19, Carroll (Column 4, lines 36-59) teaches that the acrylic material is formed between the nail tip and a shaping form and that this forms the acrylic material into a uniform layer (film).

### ***Response to Arguments***

Applicant's arguments filed September 4, 2008 have been fully considered but they are not persuasive.

Applicant argues that an artificial fingernail is not a sheet or substrate, but does not provide any evidence to support this. As evidenced by the provided definitions of a sheet and a substrate, the artificial fingernail can be considered to be both a sheet and a substrate. Definition 5a of a sheet is a portion of something that is thin in comparison to its length and breadth. The definition of a substratum (substrate) is an underlying support.

Due to amendments to the claims, the rejections over Miyamoto et al. (US 6,120,590), Popat et al. (US 5,407,718), Johnson et al. (US 6,242,047) and Linton (US 3,087,828) from the March 18, 2008 Office Action are withdrawn. Miyamoto does not

Art Unit: 1794

teach or suggest a transparent coating and the weight percentage of the hollow plastic microspheres is lower than that of the Example compositions of the instant application. Johnson does not teach or suggest a transparent coating and the maximum weight percentage of the hollow microspheres is 35%. Popat does not teach an ink composition. Linton does not teach hollow plastic microspheres.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Robinson whose telephone number is (571)272-7129. The examiner can normally be reached on Monday- Friday 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ear  
/E. R./  
Examiner, Art Unit 1794

/Carol Chaney/  
Supervisory Patent Examiner, Art Unit 1794